

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION**

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|-----------------------------|---|----------------------|
| H&R BLOCK TAX SERVICES LLC, |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| v. |) | No. 12-1320-CV-W-FJG |
| |) | |
| LUTGARDO ACEVEDO-LOPEZ, |) | |
| |) | |
| Defendant. |) | |

ORDER

Pending before the Court are (1) Defendant's Pro Se Motion Requesting Stay Due to Filling [sic] of Notice of Appeal (Doc. No. 151); (2) Swanson Midgley, LLC's Motion for Leave to Withdraw as Counsel for Defendant, With Suggestions in Support (Doc. No. 152); and (3) Marie Elsie Lopez Adames' Motion to Withdraw as Counsel (Doc. No. 153). All will be considered, below.

I. Motion to Stay (Doc. No. 151)

On October 30, 2014, defendant filed a pro se notice of appeal, as well as his motion to stay post judgment proceedings pending the appeal. In particular, defendant seeks a stay of procedures such as *duces tecum* subpoenas made by plaintiffs. Besides the fact that a notice of appeal has been filed, defendant gives no reason for the Court to grant this motion.

In their response (Doc. No. 154), defendants note that the monetary portion of the judgment of the Court exceeds \$1,870,000 plus interest, and under Fed. R. Civ. P. 62(d), defendant could obtain a stay of that portion of the judgment by filing a supersedeas bond with the Court. He has not done so, however. With respect to the injunctive portion of the judgment, the Court may suspend such judgment "on terms for

bond or other terms that secure the opposing party's rights." Fed. R. Civ. P. 62(c). Defendant has not proposed a bond, or any other terms that would secure plaintiffs' rights, and as noted by plaintiffs, the injunctive portion of the Court's Judgment refers to plaintiffs' right to be free of competition from Acevedo and those acting in concert with him. Plaintiffs also assert that defendant's family members are continuing an ongoing operation of tax preparation offices at the same locations where defendant was enjoined from operating directly, and the subpoenas *duces tecum* referenced in defendant's motion were actually served on those family members (not on defendant directly).

After consideration of defendant's motion and plaintiffs' response, the Court finds that for the reasons stated by plaintiffs, the motion to stay (Doc. No. 151) will be **DENIED**.

II. Motions to Withdraw as Counsel (Doc. Nos. 152 and 153)

Shortly after the filing of defendant's pro se notice of appeal and motion to stay, defendant's attorneys filed motions to withdraw as counsel (Doc. Nos. 152 and 153). The indicate that defendant is presently incarcerated in Puerto Rico, has not been responsive to counsel for much of the time since his incarceration, and is past-due on obligations owed counsel. Counsel also note that pro se defendant filed the notice of appeal and the motion to stay without any input from counsel. Pro se defendant was advised by counsel that any objection to the motion to withdraw must be filed with the Court no later than November 20, 2014; despite that caution, pro se defendant has not filed any response to the motions to withdraw.

Therefore, the Court will **GRANT** the motions to withdraw as counsel (Doc. Nos.

152 and 153). Swanson Midgley, LLC, attorney John J. Miller, and Marie Elsie Lopez Adames will be withdrawn as counsel of record. Defendant will be expected to proceed pro se in this matter, to the extent any further proceedings are necessary in this Court.

The Clerk of Court is further ordered to send a copy of this order via regular and certified mail to: Lutgardo Acevedo-Lopez, MDC Guaynabo, Metropolitan Detention Center, P.O. Box 2005, Catano, PR 00963.

IT IS SO ORDERED.

Date: December 8, 2014
Kansas City, Missouri

S/ FERNANDO J. GAITAN, JR.
Fernando J. Gaitan, Jr.
United States District Judge